

**RESPONSE UNDER 37 C.F.R. § 1.116
EXPEDITED PROCEDURE
GROUP ART UNIT 2192**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application. No: 10/602,553
Filed: June 24, 2003
Inventor(s): Thomas A. Makowski, Rajesh Vaidya, Deborah E. Bryant, Brian M. Johnson and Stephen C. Thorne

Title: Function Specific Graphical Program Property Nodes

Examiner:	Tecklu, Isaac Tuku
Group/Art Unit:	2192
Atty. Dkt. No:	5150-81000

REQUEST FOR PRE-APPEAL BRIEF REVIEW

ATTN: BOX AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reason(s) stated below.

Applicant is in receipt of the Final Office Action mailed June 12, 2007. Claims 82-102 remain pending in the present case. Reconsideration of the present case is earnestly requested in light of the following remarks. Please note that for brevity, only the primary arguments directed to the independent claims are presented, and that additional arguments, e.g., directed to the subject matter of the dependent claims, will be presented if and when the case proceeds to Appeal.

Claims 82-101 were rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter. More specifically, the Office Action asserts that claim 82 recites a “computer readable medium”, and that this term is defined in Applicant’s Specification on p.15, lines 17-20, as including a carrier medium, which includes signals. Applicant respectfully notes that claim 82 actually recites a “computer

readable memory medium”, and moreover, that per the definitions in the Specification, a memory medium does *not* include a carrier medium:

As clearly defined in p.13-14 of the Specification:

Memory Medium – Any of various types of memory devices or storage devices. The term “memory medium” is intended to include an installation medium, e.g., a CD-ROM, floppy disks 104, or tape device; a computer system memory or random access memory such as DRAM, DDR RAM, SRAM, EDO RAM, Rambus RAM, etc.; or a non-volatile memory such as a magnetic media, e.g., a hard drive, or optical storage. The memory medium may comprise other types of memory as well, or combinations thereof. In addition, the memory medium may be located in a first computer in which the programs are executed, or may be located in a second different computer which connects to the first computer over a network, such as the Internet. In the latter instance, the second computer may provide program instructions to the first computer for execution. The term “memory medium” may include two or more memory mediums which may reside in different locations, e.g., in different computers that are connected over a network.

Carrier Medium – a memory medium as described above, as well as signals such as electrical, electromagnetic, or digital signals, conveyed via a communication medium such as a bus, network and/or a wireless link.

Medium – includes one or more of a memory medium, carrier medium, and/or programmable hardware element; encompasses various types of mediums that can either store program instructions / data structures or can be configured with a hardware configuration program.

As may be seen, these three terms are hierarchical, with “medium” being the broadest, “carrier medium” being the next broadest, and “memory medium” being the least broad. More specifically, a memory medium is defined as a subset of carrier medium, which is itself a subset of medium. For example, note that the definition of “carrier medium” includes “a memory medium as described above, as well as signals such as electrical, electromagnetic, or digital signals”. Thus, Applicant respectfully submits that carrier medium includes memory medium, but that memory medium does not include carrier medium, i.e., carrier medium is the broader term. Similarly, medium includes carrier medium and memory medium, but memory medium (and carrier medium) does not include medium. Thus, Applicant respectfully submits that the recited “computer readable memory medium” is statutory.

Applicant respectfully requests removal of the section 101 rejection of claims 82-101.

Claims 82-102 were rejected under 35 U.S.C. 102(a) as being anticipated by Zink et al. (US 6,738,964 B1, “Zink”). Applicant respectfully disagrees.

Nowhere does Zink teach or suggest **display a function specific property node in the graphical program on the display, wherein the function specific property node is specific to the first function, wherein the function specific property node comprises a plurality of properties of the first function,**

(where the graphical program also includes a function node executable to perform the first function) as recited in claim 82.

Cited col.4:10-25 discloses a title bar 601 that presents text that gives both the name of the application (e.g. "TIBIO CAT") and the current drawing name (e.g. "Example1.tib"), a menu bar 602 that provides access to a set of drop-down menus that provide many useful functions like adding components to the drawing, saving the drawing, and configuring the target hardware, and a tool bar 603 that provides a row of icon-buttons to permit rapid access to functions that are most commonly used, e.g.: new drawing, open a file, save the drawing, cut, copy, paste, add a component to the drawing, build, run, stop, reset the target hardware, add a probe, add an audio probe, and lastly, turn on the data viewer.

Applicant respectfully notes that the cited functions and icons are not themselves graphical program nodes for inclusion in a graphical program, and more particularly, none of the items described is *a function specific property node displayed in a graphical program*, where the property node is specific to a function of a function node that is also displayed in the graphical program. Rather, the various functions and toolbar/menu items cited are GUI elements for the development environment whereby the user may develop, save, and execute, a drawing.

Cited Figure 17B and associated text discloses a property dialog window whereby the user may configure a block. While the property dialog window does allow configuration of the properties of a block in the drawing, a property dialog window is not a graphical program node displayed in a graphical program. Nowhere does Zink disclose or even hint at displaying a function specific property node in a graphical program as claimed. Thus, Zink fails to disclose these features of claim 82.

Nowhere does Zink disclose **associate the function specific property node with the function node**, as recited in claim 82.

Cited col.11:60-68 describes platform components that contain information about the target hardware where the project's executable code will be "run", and components that represent the operating system or kernel. Applicant respectfully notes that these platform components contain information, but are not associated with a function node in a graphical program. As Zink states in col.13:66-col.14:5, "User access to property settings may be presented to the user in several different ways including list-boxes (very similar to FIG. 8C), icon-based graphical user interfaces, dedicated property dialog windows, and via "wizards" that prompt the user for performance-related information and then process the user inputs to determine actual property settings." Nowhere does Zink describe a property node at all, much less associating a function specific property node with a function node (in a graphical program). Thus, Zink fails to disclose this feature of claim 82.

Nor does Zink disclose **receive user input selecting one or more of the plurality of properties; wherein the selected one or more properties are accessible during execution of the graphical program**, as recited in claim 82.

Cited Figure 8A:703 and related text disclose “one possible rendering of a component instance (i.e. block), as it would appear in a drawing.” More specifically, element 703 is a data-input pin that represents a connection point where data, especially real-time data, may be applied as an input parameter to the functionality of the block. Nowhere does the cited portion of Zink (nor Zink in general) disclose receiving user input selecting one or more of a plurality of displayed properties, where the selected properties are accessible during execution of the graphical program. In other words, in Zink’s system, the user is not allowed to specify which properties of a function node (included in the function-specific property node associated with the function node) are accessible at run-time of the graphical program; rather, in Zink’s system each block has “pins” for providing real-time input parameters to the block, which is quite different.

Cited Figure 10A:1103 and related text disclose a very simple real-time processing scenario, where data from some real-time process (like the audio signal inside a television set) is suitably “fed” to two input data buffers 1101 and 1102. Again, nowhere does Zink disclose user input selecting one or more of the plurality of properties; where the selected one or more properties are accessible during execution of the graphical program. Thus, Zink fails to disclose this feature of claim 82.

Applicant respectfully notes that Zink nowhere even mentions property nodes, much less Applicant’s function-specific property nodes; nor does Zink describe any “blocks” with the functionality of Applicant’s function-specific property nodes; nor receiving user input selecting which properties (from a plurality of properties) are accessible during execution of the graphical program.

Thus, for at least these reasons, Applicant submits that claim 1 and those claims dependent therefrom are patentably distinct and non-obvious over the cited art, and are thus allowable.

Independent claim 102 includes similar limitations as claim 1, and so the above arguments apply with equal force to this claim. Thus, for at least the reasons provided above, Applicant submits that claim 102 and any claims dependent therefrom are patentably distinct and non-obvious over the cited art, and are thus allowable.

Removal of the 102 rejection of claims 82-102 is respectfully requested.

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested. If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming

abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-81000/JCH.

Also enclosed herewith is the following item:

Notice of Appeal

Respectfully submitted,

/Jeffrey C. Hood/

Jeffrey C. Hood, Reg. #35198
ATTORNEY FOR APPLICANT(S)

Date: 2007-08-17 JCH/MSW